



# Manuel Conthe<sup>1</sup>

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Born in Madrid (Spain) on 04/23/1954  
Spanish nationality  
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Manuel Conthe is a full-time international arbitrator. He is also a columnist of the Spanish leading business newspaper, *Expansión*. He is a lawyer and economist with a recognized expertise in finance, currency issues, energy, corporate issues, valuation of damages and cognitive biases in decision-making. During his long domestic and international professional career, he has developed a reputation for independence, integrity and analytical skills.

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## CURRENT OCCUPATIONS

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- Independent arbitrator (see his cases below)
  - Appointed by Spain to the panel of ICSID arbitrators
  - Member of the Panel of Recognized International Market Experts (PRIME Finance), based in The Hague (Netherlands)
- Columnist of *Expansión*, Spain's leading financial newspaper

## LANGUAGES

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- **Spanish:** mother tongue
- **English:** perfect command
- **French:** fluent
- **German:** full reading proficiency
- **Portuguese:** full reading proficiency

## EDUCATION

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- 1971-1976 Law degree from Universidad Autónoma de Madrid (UAM). Final research paper: Special Drawing Rights (SDR).
  - During that period, he also studied Economics at the Universidad Complutense de Madrid (UCM), but did not graduate.
  - 1976-1977 Research grant on International Law at Universidad Autónoma de Madrid (UAM) on the public policy (“orden público”) exception.
- December 1978. He joined the Special Corps of State Economists (“Técnicos Comerciales del Estado”).
- 2001 Executive Education Program at Harvard Business School.

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<sup>1</sup> This cv is also available at Manuel Conthe's professional website as arbitrator <http://manuelconthe.com/es/>

## PROFESSIONAL EXPERIENCE

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Feb 2020 | ***Appointed by Spain to the list of official ICSID arbitrators***

Apr. 2018 – February 2022 | ***Non-executive independent director of Unicaja Banco***

Dec. 2017 – March 2019 | ***President of Spain's Arbitration Court***

June 2011 – April 2019 | ***Non-executive independent director of Acerinox***

Dec. 2007 – March 2019 | ***Chairman of the Advisory Board of Expansión***

Sep. 2009 – March 2015 | ***Of Counsel at Bird&Bird***

- He started as arbitrator in late 2009 as Of-Counsel in Bird&Bird LLP Madrid, a position he left in March 2015 to avoid conflicts of interests and keep working as independent arbitrator.
- 2013-2014 Member of the expert's group advising Spain's Securities & Exchange Commission (CNMV) and Ministry of Economy on the 2014 reform of Spain's Companies Act ("Ley de Sociedades de Capital") and the 2015 Code of Corporate Governance.

Oct. 2004 – May 2007 | ***Chairman of Spain's Securities & Exchange Commission (CNMV)***

- He chaired the Task Force which drafted Spain's 2006 Corporate Governance Code.
- He oversaw the introduction in 2005 of IAS-IFRS accounting standards by Spanish listed companies.
- As CNMV's representative to the International Organization of Securities Commissions (IOSCO), he chaired IOSCO's Task Forces on "Board independence" and "Protection of minority shareholders"
- He helped the Public Interest Oversight Board (PIOB) -i.e. the public international body overseeing the international audit and ethics standards approved by the standard-setting boards of the International Federation of Accountants (IFAC)- establish its Secretariat in Madrid (Spain), sharing premises with IOSCO.
- He was a member of the High Level Committee overseeing the new Iberian Electricity Market.

Oct. 2002 – Oct. 2004 | ***Partner of Analistas Financieros Internacionales (AFI)***

- He led consulting projects in Latin American and Eastern Europe for the World Bank, IFC and IDB on funding of transnational infrastructure projects, regulatory risks in FDI projects, financial regulation and housing finance.
- He prepared for the IDB the study "The perception by Spanish investors of regulatory and institutional risks in Latin America" (2004).
- He worked for Spain's Regional Governments on the use of Public-Private-Partnerships (PPP) for the provision of health services.
- In 2004 he was appointed alternate representative of the private sector to the European Investment Bank's board.

April 1999 – September 2002 | ***Vice President at the World Bank***

- He co-chaired the World Bank Finance & Private Sector Infrastructure (FIPSI) Network.
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- As Vice-president for Finance (April 1999-June 2001), he represented the World Bank in the “Financial Stability Forum” (currently, Financial Stability Board). He was a member of its working group on capital movements and of the Monitoring Group of international audit standard setting and audit quality.
- In close cooperation with the IMF, he rolled out the “Financial Sector Assessment Program” (FSAP).
- He promoted a special Technical Assistance Program on the development of domestic bond markets.
- He represented the World Bank in the 2000 AAOIFI-World Bank Conference on Islamic Banking and Finance.
- As Special Advisor to the Bank’s CFO (July 2001-September 2002), he worked on the IMF’s “Sovereign Debt Restructuring Mechanism” draft and on the World Bank Group’s strategy to promote foreign direct investments in emerging economies.

*July 1996 – March 1999 | Chief Economic and Commercial Counselor, Spain’s Permanent Representation to the EU*

- He was Spain’s Deputy Representative to the EU’s Trade Policy Committee (“113 Committee”) in Brussels and as such was (indirectly) involved in:
  - The negotiation in the WTO of the ITA Agreement to remove tariffs on IT products
  - WTO dispute settlement panels involving the EU (e.g. bananas)
  - EU’s Preferential Trade Agreements
  - The preparation of the then called “Millenium Round” (the fore-runner of the “Doha Round”)
  - Bilateral EU-USA trade issues and negotiations (e.g. Helms Burton)
  - The OECD negotiations on a “Multilateral Agreement on Investments” (MAI).
- He participated as part of Spain’s delegation in the first Ministerial WTO Conference held in Singapore in December 1996.

*Nov. 1995 – May 1996 | Deputy Minister for Economy (“Secretario de Estado de Economía”)*

- During the December 1995 European Council in Madrid, he drafted its Conclusions on the “scenario for the introduction of the euro”
- He was Secretary General of the Ministers’ Comission for Economic Matters (“Comisión Delegada para Asuntos Económicos”).
- He approved the securitization by Spanish electric utilities of the so-called “nuclear moratorium”
- Non-executive director of SEPI, the Spanish State’s industrial holding company.

*Oct. 1988 – Nov. 1995 | Director General of the Treasury and Financial Policy*

- As the Kingdom’s Chief Financial Officer (CFO), he was in charge of Spain’s sovereign borrowing, derivatives and cash management programs, and took a leading role in the modernization of Spain’s domestic public debt market. In close collaboration with the Bank of Spain, he specifically helped develop:
  - The Treasury’s group of market makers;
  - The regulation of Spain’s first future and option markets on peseta government bonds;
  - The new system of personal government bond accounts at the Bank of Spain for retail investors (“cuentas directas”);
  - A new type of mutual funds investing primarily on government bonds (“Fondtesoros”)
- He drafted all major Government regulations and laws on banking and financial markets, including the Law on Autonomy of the Bank of Spain, the Law on Securitization of Financial Assets and the regulation of the domestic futures and options markets.
- As member of the EU Monetary Committee, he negotiated the entry of the peseta into the European Monetary System (June 1989) and its subsequent four devaluations.
- He led Spain’s delegation to the 1990 Conference which created the EBRD.
- He led Spain’s delegation to the 1991 Inter-governmental Conference on Economic and Monetary Union which negotiated the 1992 Maastricht Treaty.

- Member of the Board of the Bank of Spain and of Spain's Securities & Exchange Commission (CNMV).
- Member of the Board of the European Investment Bank (EIB) (up to 1993)
- As chairman of the Interministerial Committee on Foreign Borrowing (CIFEX), he controlled and supervised foreign currency borrowing by Spanish public entities, as well as access by Spain's highway companies to the Government's exchange risk guarantee ("seguro de tipo de cambio")

*Dec. 1986 – Oct. 1988 | **Director General for Foreign Transactions & Investments***

- As head of Spain's Foreign Transactions Directorate, he chaired the committee which screened and approved all major FDI projects involving a foreign majority stake.
- He led Spain's delegation to the 1988 Washington conference which led to the creation of the Multilateral Investment Guarantee Agency (MIGA).
- Non-executive director, representing the Government, at Banco Exterior and Repsol Exploración.

*Dec. 1984 – Dec. 1986 | **Assistant Director General of the Treasury for External Finance***

- As Deputy CFO for the Kingdom of Spain, he managed Spain's foreign borrowings and its relations with international capital markets and rating agencies.
- He negotiated and managed the Kingdom's currency and interest rate swaps.
- He controlled and supervised foreign currency borrowings by Spanish public entities, as well as highway companies benefitting from a sovereign exchange risk guarantee.
- He promoted and supervised the foreign peseta bond market ("mercado matador").

*1979 – 1984*

- 1981-1984 Technical Assistant to Executive Director at the Inter-American Development Bank (IDB). Besides reviewing all loans and investment projects funded by the IADB and submitted to the Board for approval, he was closely involved in the negotiation of the IADB's fifth capital replenishment and the establishment of the Inter-American Investment Corporation.
- 1979-1981 Junior official at the Ministry of Commerce of Spain, dealing with trade promotion and screening of FDI projects in Spain.
- In December 1978 he joined the "Special Corps of Government Economists" ("Técnicos Comerciales y Economistas del Estado") of the Ministry of Commerce.

**AREAS OF PARTICULAR EXPERTISE**

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- Financial markets (equity swaps, IRS and derivatives, securitization, banking regulations, credit insurance, IFRS, accounting and financial reporting; investor protection and mis-selling claims, market abuse)
- Regulation of electricity & energy markets and valuation of electricity & energy companies
- Corporate transactions and governance (valuation of companies and joint ventures, shareholders' agreements, M&A and take-over disputes; corporate governance issues, directors' fiduciary duties, related-party transactions)
- Foreign direct investments, including regulatory risks, financing and regulation
- Public-Private Partnerships
- Monetary and currency laws & contractual clauses
- Trade laws & WTO Agreements (GATT, GATS, TRIMS...)

## PUBLICATIONS<sup>3</sup>

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### *Recent articles*

- “Time-travel riddles in the assessment of damages” ( 2020 Austrian Yearbook of International Arbitration)
- “The future of money” (Instituto de Analistas Financieros 2019 Euro Yearbook)
- “Geopolitics of energy and Game Theory”, published as Chapter I of “Energía y Geoestrategia 2019”, Instituto Español de Estudios Estratégicos, 2019.<sup>4</sup>
- “Quantum and Pricing Issues in Disputes Along the LNG Project Life Cycle” (Journal of Damages in International Arbitration”, Octubre 2018, Vol. 5, No1), a transcript of a panel of the Sixth Annual Damages in International Arbitration Conference, Houston, November 2017.
- “El arbitraje en España”, prólogo del primer Estudio del Arbitraje en España (Universidad de Comillas, Asociación de Corporate Counsels y Roca Junyent, 2018).
- “El gobierno de las instituciones arbitrales: mejorando, que es gerundio”, chapter 21 of Liber Amicorum dedicado a Gonzalo Jiménez Blanco.
- “El coste de la inversión en la valoración del daño por expropiación”, presentation at XI Conferencia on International Arbitration, Quito, marzo 2018.
- “Damnum emergens, lucrum cessans and moral damages: how to avoid double counting?”, presentación en la sesión del ICC Institute sobre “Assesment of Damages by Arbitrators” de la 15th ICC Miami Conference, noviembre de 2017.
- “Value engineering in the FIDC Construction Contract”, capítulo de “International Construction Law” (Second Edition), by Lukas Klee, editor, Iley & Son, 2018)-.
- “Los dilemas de la resolución bancaria” (Anuario del euro, 2017).<sup>5</sup>
- “Paulsson´s nirvana fallacy”, Spain Arbitration Review, No.29/2017, junio de 2017.
- “Técnicas de persuasión en arbitraje internacional: el método Aristóteles +”, presentación en el ICC Young Arbitrators Forum en Madrid, abril de 2017.
- “Expropiaciones: métodos de determinación de daños”, presentación en seminario sobre determinación y prueba de daños de la Corte de Arbitraje de Madrid, abril de 2016.
- “Swaps de intereses: la sentencia del TSJ de Madrid de 28 de enero de 2015”, La Ley, nº 8515, abril 2015.
- “Conflicts of interest of non-Martian arbitrators” (World Mediation and Arbitration Review, 2014).
- “The Case for Remission Techniques in Arbitration” (Latin American Journal of International Trade Law, 2013).
- “The Art & Science of Persuasion”, presentación en el 8th ITA Workshop, Santiago de Chile, 2012.
- “Inside Arbitrators’ Minds”, publicado en el Global Arbitration Review del 20 de enero de 2011.
- “Cognitive Biases in Legal Decision-Making,” presentación en los seminarios de Resolución de Litigios celebrados durante las Reuniones Anuales del IBA en Vancouver en el 2010 y en Dubai en el 2011.
- “The Financial Crisis and Toxic Retail Derivatives: Fraud by Hindsight or Mis-selling?” en “Annals of the 60th Anniversary of the Polish Arbitration Court”, Varsovia, 2010, Capítulo VII, pp. 735-738.
- “Majority Decisions in complex arbitration cases: the role of issue-by-issue voting”, Spain Arbitration Review, nº 8/2010.

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3 Most of them are available at <http://manuelconthe.com/es/articles-on-arbitration/>

4 The Spanish version is available at <http://www.ieee.es/Galerias/fichero/cuadernos/Energiaigeoestrategia2019.pdf>

5 Available at <https://www.fundacionico.es/wp-content/uploads/2017/07/ANUARIO-2017.pdf>. También publicado en <https://www.expansion.com/blogs/conthe/2018/02/27/los-dilemas-de-la-resolucion-bancaria.html>.

6 [https://www.amazon.es/s?k=manuel+conthe&adgrpid=59025293954&hvadid=275294715756&hvdev=c&hvlocphy=9061032&hvnetw=g&hvpos=1o1&hvqmt=b&hvrnd=18203071858835528019&hvtargid=a+ud-611013333046%3Akwd-412232684385&tag=hydes-21&ref=pd\\_sl\\_1l6mzqo-qg7\\_b](https://www.amazon.es/s?k=manuel+conthe&adgrpid=59025293954&hvadid=275294715756&hvdev=c&hvlocphy=9061032&hvnetw=g&hvpos=1o1&hvqmt=b&hvrnd=18203071858835528019&hvtargid=a+ud-611013333046%3Akwd-412232684385&tag=hydes-21&ref=pd_sl_1l6mzqo-qg7_b)

## ***Books<sup>6</sup>***

He has written three books, mostly on economic, legal and social paradoxes and dilemmas, with a special focus on behavioural law & economics:

- “Pensar con Arte” (Thinking with Art), Editorial Biblioteca Nueva, December 2014.
- “La Paradoja del Bronce” (The Bronze Medal Paradox), Editorial Crítica, Barcelona, 2007.
- “El Mundo al Revés” (The World Upside Down), Editorial Planeta, Barcelona, 1999.

## ***Other***

- His columns in “Expansión” (<http://www.expansion.com/blogs/conthe/>) analyze current financial, economic, legal and political events through the lens of game theory, behavioral law & economics, and public choice.
- He is a member of the Advisory Board of “Indexa Capital,” a Spanish securities firm offering passive wealth management on-line services.

## ARBITRATION CASES (AS OF FEBRUARY 2022)

	Year of Appointment	Arbitration court <sup>7</sup>	Applicable law (if not Spain's)	Role	Appointment Method	Dispute				
						Amount (€ million)	Sector	Object/Place	Language (if not Spanish)	Year of Award-or Status
45	2022	ICC		Co-arbitrator	Respondent	TBD	Catering Industry	Contractual Dispute	English	Ongoing
44		CAM		Sole Arbitrator	Court (by drawing lots)	TBD	Corporate	Corporate Transaction		Ongoing
43	2021	ICSID (ARB 21/25)	NAFTA-USMCA	President	Court	TBD			English-Spanish	Ongoing
42		CAM		President	Parties		Hotel Industry	Rent Adjustment		Settled (2021)
41		CAM		Co-arbitrator	Respondent	TBD	M&A (industry)	Representation & Warranties	English	Ongoing
40	2020	CIMA		Co-arbitrator	Claimant	TBD	International Construction	Credit Insurance		Settled (2021)
39		CAM		Co-arbitrator	Claimant	78	Energy	Revision of Gas Price		Settled (2021)
38		ICSID	BIT-ICSID Rules	Member of Committee	Court	N/A	Farming	Annulment Procedure	English	2021
37		CIMA		Co-arbitrator	Claimant	TBD	Construction	Damages		Ongoing
36		CCL	Perú	Co-arbitrator	Claimant	TBD	Retail	Distribution agreement		Ongoing
35	2019	TAB		Sole Arbitrator	Court	12.6	Construction	Funding Arrangement		2020
34		CIMA		President	Parties	0.5	Corporate finance	Loan		2020
33	2018	ICC	Perú	Co-arbitrator	Claimant	N/A	Corporate	Shareholders' agreement		Settled (2018)
32		CAM		Co-arbitrator	Claimant	342	Corporate	Right of separation		2019
31		PCA	Ecuador	Co-arbitrator	Claimant	110 (\$)	Energy	Oil contract in Ecuador		Ongoing <sup>8</sup>
30		CAM		Co-arbitrator	Claimant	211	Corporate	Shareholders' agreement		2019
29		ICC		Co-arbitrator	Claimant	24	Corporate	Shareholders' agreement		Ongoing
28	2017	CAM		President	Court	2.7	Corporate	Breach of By-laws		2017
27	2016	CAM		Co-arbitrator	Claimant	10.4	Finance	Management fee in VC fund		2017
26		ICC		Sole Arbitrator	Court	14	Corporate Real Estate	Preemption rights		Settled (2017)
25	2015	TAB		Sole Arbitrator	Court	6.9	Finance	Collar		2016
24		CAM		President	Parties	0.531	Finance	Swap		2016
23		ICC		President	Parties	9.1	Construction	Industrial Project in Portugal	English	2017
22		ICC		Co-arbitrator	Respondent	72	Corporate M&A	Price Adjustment	English	2016
21		ICC		Co-arbitrator	Court	20	Construction	Industrial Project in Spain	English	Settled (2017)

<sup>7</sup> CAM: Corte de Arbitraje de la Cámara de Comercio e Industria de Madrid; CCL: Corte de la Cámara de Comercio de Lima; CEA: Corte Española de Arbitraje; PCA: Permanent Court of Arbitration, The Hague. CIAC: Corte Interamericana de Arbitraje Comercial; CIMA: Corte Civil y Mercantil de Arbitraje (Madrid); ICC: Court of Arbitration of International Chamber of Commerce, París; TAB: Tribunal Arbitral de Barcelona.

In green, international arbitrations and in yellow, investor-State disputes.

<sup>8</sup> See press information at [https://edicionimpresa.elcomercio.com/es/102300009987f18a-d151-41a9-ac1a-df478ec22dc8\\_11042018\\_/texto](https://edicionimpresa.elcomercio.com/es/102300009987f18a-d151-41a9-ac1a-df478ec22dc8_11042018_/texto), noticias bn, 4.

## ARBITRATION CASES (AS OF FEBRUARY 2022)

20		ICC		Sole Arbitrator	Court	8.4	Construction Energy	Energy Project in South Africa		2016
19	2014	CAM		Co-arbitrator	Claimant	0.521	Finance	Swap		2015
18	2014	CAM		President	Parties	0.232	Finance	Swap		2014
17		PCA	Ecuador	Co-arbitrator	Claimant	828 (\$)	Energy	Oil contract in Ecuador		2018 <sup>9</sup>
16		ICC	France	Co-arbitrator	Claimant	180	Finance M&A	Value of put option		2015
15		CIMA		Co-arbitrator	Claimant	5.2	Telecoms Corporate	Distribution contract		Settled (2015)
14		CIMA		President	Parties	47	Insurance Corporate	Distribution contract		Settled (2014)
13	2018	CIAC	Peru	Co-arbitrator	Respondent	N/A	Energy	Repricing of gas contract in Perú	English-Spanish	2016
12		CAM		Co-arbitrator	Claimant	3.3	Finance	Swap		2014
11		CAM		President	Court	0.142	Finance	Swap		2014
10		CEA		President	Court	2.1	Finance	Swap		2013
9	2012	CAM		Sole Arbitrator	Court	7.8	Corporate M&A	Tag along rights		2013
8		CEA		Co-arbitrator	Respondent	0.350	Health Sector Corporate	Breach of By-laws		2013
7		CIMA		Sole Arbitrator	Court	0.732	Construction	Irrigation dam		2012
6		PCA	BIT Bolivia-UK	Co-arbitrator	Claimant	142 (\$)	Electric Utility Energy	Expropriation in Bolivia	English-Spanish	2014 <sup>10</sup>
5	2011	CAM		Sole Arbitrator	Court	4.2	IT M&A	Earn-out clause		2012
4		CEA		Co-arbitrator	Respondent	0.113	Energy	Gas station contract		2011
3		CEA		President	Parties	3	Finance	Swap		2011
2	2010	CAM		President	Court	0.756	Finance	Swap		Settled (2010)
1		CEA		Sole Arbitrator	Court	0.025	Insurance	Credit insurance claim		2010

<sup>9</sup> See details in <https://pca-cpa.org/en/cases/111>

<sup>10</sup> Award and further information available at <https://pca-cpa.org/en/cases/72/>